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Livestock Facility Siting Review Board

**June 13, 2018 Minutes**

Livestock Facility Siting Review Board Meeting  
Department of Agriculture, Trade and Consumer Protection (DATCP)  
2811 Agriculture Drive, Room 266  
Madison, WI

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**CALL TO ORDER— Bob Topel, LFSRB Chair**

The meeting was called to order by Chairman Bob Topel at 10:03 am. Topel, Raymond Diederich, Lee Engelbrecht, Dr. Jerome Gaska, Scott Godfrey, Scott Sand, and Bob Selk were in attendance. Attorney Cheryl Daniels, Richard Castelnovo, and Chris Clayton, DATCP, were also present. Others present included Aaron Johnson (appellant), Rick Roedl (Daybreak Foods, Inc.), Mark Watkins, Matt Zangl, Sarah Higgins, and Lindsey Schreiner (Jefferson County), Bob Pofahl, Anita Martin, Ronni Monroe, Sherry and Michael Hellekson, and Marge Johnson.

Clayton confirmed that the meeting was publicly noticed as required.

Daniels called roll, confirming that a quorum was present.

Engelbrecht moved to approve the agenda as presented, Godfrey seconded, and the motion carried.

The January 25, 2018 meeting minutes were presented for approval. Gaska made a motion to approve the minutes as presented, seconded by Diederich, and the motion passed.

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**JOHNSON V. JEFFERSON COUNTY, NO. 18-LFSRB-01— Cheryl Daniels, Board Attorney**

Topel stated that he would abstain from voting on matters related to this case because he had lived nearby Daybreak Foods, Inc., for several years and currently owns land nearby the operation. The Board agreed that Topel should otherwise retain his duties as Chair to run the meeting.

The LFSRB addressed the aggrieved person's request for review, and specifically the allegation that Jefferson County failed to properly consider air quality and odor concerns in issuing the siting permit. The Board identified the following issues that apply in this case:

1. Pursuant to Wis. Stat. § 93.90(4) (d) and Wis. Admin. Code § ATCP 51.34, did the Applicant, Daybreak Foods, Inc., in its application for approval provide sufficient credible information to show that the proposed facility meets the odor standard in Wis. Admin. Code § ATCP 51.14?
2. Pursuant to Wis. Stat. § 93.90(4) (d) and Wis. Admin. Code § ATCP 51.34, is there sufficient evidence in the record to find, by clear and convincing information or documentation, that the applicant cannot meet the standard in Wis. Admin. Code § ATCP 51.14, and therefore the county's issuance of the CUP cannot be sustained by the LFSRB?
3. Are there sufficient grounds to review the conditions placed on the Applicant's CUP by Jefferson County?

The Board discussed the following based on the first two issues: the structures and activities addressed and not addressed by the odor standard; the absence of ATCP 51 provisions addressing odor from animal mortality; odor research relating to poultry operations in general; odor research relating to animal mortalities and process wastewater; the absence of rule requirements regarding the management of mortalities; the importance of

research and science in ensuring the ongoing effectiveness of odor standard; the limited enforceability of the optional odor management plan.

There was consensus among the Board that the application appeared complete, that the applicant had satisfied the requirements of the odor standard and that the evidence in the record did not contradict this conclusion.

Regarding first issue on appeal, Gaska made a motion to determine that the application satisfied the requirements of the odor standard in ATCP 51, seconded by Godfrey, and the motion passed with Topel abstaining.

Regarding the second issue on appeal, Gaska made a motion to determine insufficient evidence in the record showing the applicant cannot meet the odor standard, seconded by Diederich, and the motion passed with Topel abstaining.

The Board discussed the third issue in this case related to the conditions placed on the CUP by the county. Since the Board identified this issue rather than the appellant, the Board questioned taking a vote on the issue. The Board did agree that the conditions in the permit do not create new standards and are reasonably related to monitoring compliance of the standards in ATCP 51.

In addition, the Board discussed the following: the facility's plans for managing manure and use of a proposed manure storage structure; water use and process wastewater related to the egg processing facility.

The Board discussed how the odor standard applies, and does not apply, to different structures and activities related to livestock facilities. The Board agreed that odor from farms is an important issue, and it expressed interest in addressing this issue in an appropriate manner. While not formally included in its decision, the Board reached a consensus on the need to identify the research and other scientific basis for better categorizing odor from different sources not accounted for in the livestock siting rule, such as odor from livestock mortalities and process wastewater.

Daniels identified July 18, 2018, as the Board's deadline for approving a final written decision.

The LFSRB members directed LFSRB Attorney Daniels to memorialize their deliberations in a written decision including their conclusions on the three issues addressed by the Board.

#### **SET DATE FOR TELEPHONIC BOARD MEETING TO REVIEW DRAFT AND VOTE ON FINAL DECISION—Cheryl Daniels, Board Attorney**

The LFSRB scheduled a meeting by telephone conference call on Friday, June 29, 2018, at noon, to review the draft decision and vote on a final decision.

#### **ADJOURN**

Engelbrecht moved to adjourn the meeting, seconded by Diederich, and the motion passed. The meeting ended at 11:10 a.m.

Respectfully submitted,

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Bob Selk, Secretary

Date

Recorder: CC